

PUBLIC HEARING

COMMITTEE OF INQUIRY INTO MONEY
LAUNDERING, TAX AVOIDANCE AND
TAX EVASION (PANA)



Tuesday 26.09.2017 – **09:00 - 12:30**

ALTIERO SPINELLI BUILDING – ROOM **A5G-2**



TAX-PLANNING, DO CELEBRITIES AND COMPANIES BREACH EU LAW?

Chaired by Dr. Werner LANGEN

The hearing will be webstreamed on: <http://www.europarl.europa.eu/ep-live>



PANA

Committee of Inquiry into Money laundering, tax avoidance and tax evasion

PUBLIC HEARING

TAX-PLANNING, DO CELEBRITIES AND COMPANIES BREACH EU LAW?

FIRST PANEL: FOOTBALL LEAKS

SECOND PANEL: CATERPILLAR AND BASF

TUESDAY, 26 SEPTEMBER 2017

9.00 - 12.30

Room: Altiero Spinelli (ASP) 5G-2

DRAFT PROGRAMME

9:00 - 9:05 Welcome by the PANA Chair

9:05 - 9:45 First panel: Football leaks - Presentations by speakers

- **Merijn Rengers**, investigative journalist NRC Handelsblad - European Investigative Collaborations (EIC)
- **Kimberly Morris**, Head of TMS Global Transfers & Compliance - FIFA
- **Julien Zylberstein**, legal counsel at UEFA
- **Gregor Reiter**, Deutsche Fußballspieler-Vermittler Vereinigung E.V. - European Football Agents Association (EFAA)

9.45 - 10.40 Discussion with PANA Members

10:40 - 11:10 Second panel: Caterpillar and BASF - Presentations by speakers

- Exchange of views on **Caterpillar**
- **Bastian Brinkmann**, Journalist from Süddeutsche Zeitung
- **Dr. Wolfgang Haas**, President Legal, Taxes, Insurance & Intellectual Property - BASF



PANA

Committee of Inquiry into Money laundering, tax avoidance and tax evasion

11.10 - 12.05 Discussion with PANA Members

12:05 - 12:10 Conclusions by the PANA Chair

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Brussels

CVs OF THE SPEAKERS

Brief Curriculum Vitae Merijn Rengers, NRC Handelsblad

Personal

Name	Merijn Rengers
Date of Birth	
Phone	
Nationality	Dutch
Email	M.Rengers@nrc.nl

Education

1991-1996	University of Amsterdam, Economics
1996-2001	PhD student at Utrecht University; Faculty of Social Science, Department of Sociology
June 11th 2002	PhD at Utrecht University
Title of PhD	Economic Lives of Artists. Studies into Careers and the Labour Market in the Cultural Sector

Journalism

1995-2003	Freelance journalist (sports, economics)
2003-2008	Economic reporter at de Volkskrant
2008-2014	Investigative reporter at de Volkskrant
2014-now	Investigative reporter at NRC Handelsblad
2016	Football Leaks, together with European Investigative Collaborations (EIC)



Julien ZYLBERSTEIN

A lawyer by trade, Julien Zylberstein (35) is UEFA's Head of EU & Stakeholders Affairs. He advises on a wide range of strategic, legal and political issues and holds a successful record of executive accomplishments and technical achievements. He represents UEFA before the main political bodies and before football stakeholders and chairs the European social dialogue committee for professional football.

Before this, Julien was the legal advisor of the UEFA Club Financial Control Body which oversees the application of the Financial Fair Play initiative. He has significant expertise in football regulations and commercial matters and has represented UEFA before the Court of Arbitration for Sport.

Julien sits as a judge in the Anti-Doping Tribunal of the Union Cycliste Internationale (UCI). He is an arbitrator at the Court of Arbitration of the European Handball Federation (EHF) and a member of the legal committee of Rugby Europe, the European rugby federation. He sits on the Independent Panel of FIBA, the International Basketball Federation.

He was a board member of French football clubs AS Beauvais-Oise (2008-10) and Evian Thonon Gaillard FC (2010-11). He advised Evreux FC 27 in 2011 and is currently a board member of Paris FC.

Julien is a guest lecturer at various European universities. He is the author of many academic papers and sits in the scientific committees of *Football Legal*, *Les Cahiers de Droit du Sport* and of the *Rivista di Diritto ed Economia dello Sport*. He is also a scientific co-director of European think-tank *Sport & Citizenship*.

A graduate from the University of Paris Panthéon – Sorbonne, Julien also studied at the University of Bologna and the University of Rome II Tor Vergata. He holds a LLM in European law from the University of Brussels as well as a Master's degree in European Sport governance from Science-Po Paris.

In addition to his mother tongue French, Julien speaks English and Italian.

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CIRICULUM VITAE Dr. Gregor Reiter, Attorney at Law, Dortmund, Germany / CEO of the Deutsche Fußballspieler Vermittler Vereinigung e.V.

Job Related Education:

August 1991 - January 1994

Vocational training as a banker, Stadtparkasse Oberhausen

October 1993 - March 1998

Legal Studies at the Ruhr-Universität Bochum,

September 1995 - June 1996

Studies of Law and Political Science at the University of Oregon, Eugene/USA

March 2001 - July 2003

Doctoral candidate at the Chair for Civil Law, Commercial and Labor Law of Ruhr-Universität Bochum, Dissertation Subject: The Professional football players club transition under special consideration of the „FIFA-Regulations for Status und Transfer of Players“ in the version of September 1st, 2001

Work Experience:

Since April 2001

Self Employed lawyer in the Ruhr Area in the fields of insolvency and sports law.

Sports Law:

Representation and counseling of clubs (Football, American Football), athletes (Football, Boxing, Motor Racing) and associations (Football) in various aspects of sports law, as well as other law fields

CRO of the professional women's soccer club FCR 2001 Duisburg e.V.

The FCR 2001 Duisburg e.V. was the first club in German soccer to undergo a successful insolvency by having the teams restructured and transferred to the men's professional soccer club of MSV Duisburg

Since November 2007

CEO of the German Football Agents Association

Since April 2008

Member of the Managing Board of the European Football Agents Association, The Hague/Netherlands

Publications:

2003 The Professional football players club transition under special consideration of the „FIFA-Regulations for Status und Transfer of Players“ in the version of September 1st, 2001 (Dissertation, Peter Lang Verlag)

2004 The Professional Players License as a tangible asset in the Clubs Balance Sheet, Spurt 2004

2010 UEFA Financial Fair Play: What it is and will it work?, FC Business, 2010; UEFA Financial Fair Play: Do the regulations reflect the concept?, FC Business 2010

with Dr. Roberto Branco Martins: Players' Agents: Past, Present ... Future?, The International Sports Law Journal

2011 with Dr. Johan-Michel Menke: Athlete Counseling in the Crossfire of Brokering and Negotiation: The Legal Aspects of Player Agents, SCIAMUS 2011

2013 with Martin Lambrecht: The professional sports club during crisis and insolvency, SpuRt 2013

2014 Legal Aspects of amateur and professional sport clubs, Fernuniversität Hagen 2014
Tax Turmoil in German Football, www.taxsutra.com/microsite/brazil2014



Bastian Brinkmann

Professional Career	Senior Online Editor at Süddeutsche Zeitung joined as an editor in 2012 participated in OffshoreLeaks, LuxLeaks, SwissLeaks, Panama Papers
University	Economics and political science at University of Cologne, Germany Exchange semester in Seoul, South Korea Attended Journalism School in Cologne (Kölner Journalistenschule)
Alternative civilian service	2007/2008 in Brussels, Belgium (Katholische Gemeinde)
Born	May 1988 in Schwelm, North Rhine-Westphalia



Dr. Wolfgang Haas

General Counsel
President, Legal, Taxes, Insurance & Intellectual
Property of BASF SE

Wolfgang Haas was born in Ludwigshafen/Rhine in 1960. From 1980 until 1986, he studied Law at the Johannes-Gutenberg-University in Mainz, where he also received his doctorate in law after his second state exam.

Professional career

- 1989** Fiscal Administration Baden-Württemberg in Karlsruhe
- 1992** Tax department of Wintershall AG, Kassel
- 1994** Central Tax and Customs Department at BASF AG
- 1997** Tax department of BASF Corporation, Mt. Olive (USA)
- 1998** Director Tax Asia Pacific at Central Tax Department of BASF AG
- 2001** Deputy Head of the Central Department for Taxes, Duties and Foreign Trade Control of BASF AG
- 2006** Member of the Board of Directors of BASF Coatings AG, responsible for personnel, finance, purchasing, information management as well as legal affairs, tax and insurance
- 2007** Head of the Central Department for Taxes and Duties of BASF AG
(from January 14, 2008: BASF SE)
- 06/2011** General Counsel and President, Legal, Taxes & Insurance of BASF SE
- Since 01/2015** General Counsel and President, Legal, Taxes, Insurance & Intellectual Property of BASF SE

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PUBLIC HEARING

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Brussels

CONTRIBUTIONS

On Football Leaks

Speaking notes

Merijn Rengers (NRC Handelsblad, Netherlands and EIC, European Investigative Collaborations)

What is Football Leaks?

Football Leaks is a whistleblower-website on which secret financial deals, contracts, emails and letters on professional soccer are revealed. It is also the name of a series of articles based on 1.9 terabytes of leaked data (also on professional soccer) that appeared in December 2016 in media across Europe. And it is the name of a book by Der Spiegel-journalists Rafael Buschmann and Michael Wulzinger.

In the book, the Germans summarize the main findings from Football Leaks and they tell the story of 'John' – the leading force behind Football Leaks, who brought the leaked material to Der Spiegel, which shared it with media outlets across Europe.

What is European Investigative Collaborations (EIC)?

European Investigative Collaborations (EIC) has evolved in less than a year from an informal group of investigative journalists to a non-registered Association with its seat in Hamburg. By now EIC partners are representing the diverse spectrum of European investigative journalism: traditional media, non-profit and digital players.

EIC is now formed by Der Spiegel, Mediapart, Dagens Nyheter, The Romanian Centre for Investigative Journalism / The Black Sea, Politiken, Le Soir, El Mundo, L'Espresso, Espresso, Falter, NewsWeek Serbia and NRC. We do collaborate with project based partners. For instance in the case of Football Leaks we partnered with the Sunday Times.

What are the main findings of Football Leaks?

First and foremost, Football Leaks has produced an enormous amount of facts and stories that were previously unknown. Stories on how transfers of soccer players really work out, on how soccer players, agents and intermediaries cooperate in order to evade taxes (in particular related to image rights), on the business dealings of Doyen Sports (which, some years ago, became an important player in professional soccer but has disappeared almost entirely), but also on issues such as the absurd level of financialization of player contracts.

To name a few:

- Late 2014, Cristiano Ronaldo moved 63,5 million euro (through Ireland) to shell companies in the British Virgin Islands, thus saving about 35 million in taxes. He did this 11 days before a change in Spanish (tax) law.
- Jose Mourinho moved €12m into a Swiss account owned by a British Virgin Islands company.

- Soccer players from South-America (such as James Rodriguez and Ángel di María) have used the Dutch financial system and fake player-agents and fake contracts to channel millions of euro's to Panama.
- Doyen sports used numerous tricks to manipulate deals and clubs in its favor. In the Netherlands, former national champion FC Twente was nearly taken out of the competition after the true contracts between Doyen and the club were revealed by Football Leaks. The local government is partly paying the recovery costs.

I could spend an hour discussing each and every article that we have written, including the difficulties that we had talking to representatives of the football industry about our findings. But given the time, it is better to highlight a few overarching themes.

The **first** is the inward focused mentality of professional soccer. When we were discussing issues such as tax morality, transparency and financial responsibility with representatives of the football industry, the first answer usually was: "This may be strange in the real world, but it is normal in football. This is the way it goes. This is football."

This mentality is shared by many sports journalists, who seem to be less critical about their favorite soccer team than about – let's say – politics in their home country. Sports media are often more interested in picking up the latest transfer news than in revealing (financial) scandals. In their defense: the two don't go together too well: after one or two critical articles, clubs are usually not willing anymore to cooperate with a critical writer or the media he or she represents.

The **second** is the lack of authority among clubs and agents of football associations. The bigger clubs in Europe often seem to be richer, better staffed and better organized than the associations. Rules made by FIFA or UEFA, particularly concerning transfers, are neglected or laughed away. This feeling is even stronger among player agents, who openly criticize FIFA and point at its internal problems and corruption.

One good example of how clubs and agents (and also players) work together to neutralize FIFA regulations relates to so called third party ownership. This is forbidden since a couple of years, but clubs and agents have found many way around it – without the FIFA being able to enforce its own rules.

In the Netherlands, the Dutch association KNVB for instance actively advised clubs on how to make cosmetic adjustments in their contracts so that nothing really changed regarding sell on rewards for agents after new FIFA rules forbade these sell on rewards.

The **third** relates to taxes. Soccer players and their advisers are not different from other wealthy individuals and have come up with numerous tax schemes in order to reduce their tax burden. This happens almost exclusively with earnings from image rights, as it is much easier to tax wages at a club.

Football Leaks, together with a number of investigations by national tax authorities have revealed that the biggest players and coaches, the biggest player agents and the biggest clubs have all been involved in setting up (image rights) constructions in order to move millions out of sight of the tax man.

The **fourth** and last that I will mention for now is the speed at which the soccer industry is growing and changing. This is much faster than the speed at which FIFA, UEFA, associations and (national and European) lawmakers are able to make or adjust regulations. They seem to be permanently behind.

One example: FIFA has tried to abandon third party ownership from professional soccer. It failed, but in the meantime the question who owns and/or finances an entire club is at stake. I know of clubs in the Netherland where unknown, foreign “investors” yearly spend (and lose) tens of millions – and nobody (not the association, nor the tax authorities, nor the other clubs) seem to know where the money comes from.

To conclude

The good thing about being a journalist is that I do not have to answer all the questions that I am asking. As journalists, we try to shine a light on matters that were previously unknown. It is up to others to react (or not to react) to our stories and revelations - also in the case of the exploding football industry.

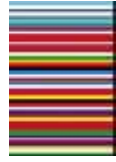
But nobody should be surprised if in the near future another (financial) scandal around a big European club, player or agent comes to light. Thanks to Football Leaks, no one can say that journalism neglected the (financial) backside of European soccer.



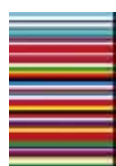
PANA Hearing

September 26th, 2017

Brussels, Belgium



The European Football Agents Associations
2017





EFAA Organisation

Location

- The Hague, the Netherlands

Legal Structure

- Association (Not for profit)

The Board

- **President:** Rob Jansen (NL)
- **Vice-President:** Giovanni Branchini (ITA)
- **Members:** Manfred Schulte (GER), Bruno Satin (FRA), Leon Angel (UK)
- **Permanent Guest:** Marcos Motta (BRA)

Management

- **General Managers:** Dr. Roberto Branco Martins (NL), Dr. Gregor Reiter (GER)

www.eufootballagents.com





Connected National Agent Associations

- Netherlands: **Pro Agent**
- Germany: Deutsche Fussballspieler Vermittler Vereinigung (**DFVV**)
- England: **The Football Agents Association**
- France: Union des Agents Sportifs du Football (**UASF**)
- Italy: Associazione Agenti Calciatori e Societa (**A.I.A.C.S**)
- Portugal: Associação Nacional de Agentes de Futebol (**ANAF**)
- Austria: Österreichische Fußball-Spielervermittler Vereinigung (**ÖFVV**)
- Czech Republic – Association of Football Agents (**AFA**)
- Denmark – Danish Football Agents Association (**DFAA**)
- Bulgaria – Bulgarian Football Agents Association (**BFAA**)
- Spain: Asociación Española de Agentes de Futbolistas (**AEAF**)
- Sweden: Svenska Spelaragentföreningen

- Switzerland – Swiss Football Agents Association (**SFAA**)
- Japan – Japanese Football Agents Association (**JFAA**)
- Brazil – Brazilian Association of Football Agents (**ABAF**)
- Australia – Australian Football Agents Association (**AFAA**)
- Argentina – Argentine Football Agents Association (**AFAA**)



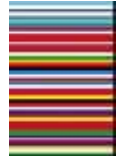


Reason for the founding of EFAA

White Paper on the Future of Sport in the European Union (2007)



- *“There are reports of bad practices in the activities of some agents which have resulted in instances of corruption, money laundering and exploitation of underage players. These practices are damaging for sport in general and raise serious governance questions. The health and security of players, particularly minors, has to be protected and criminal activities fought against.”*
- *“The Commission will carry out an impact assessment to provide a clear overview of the activities of players' agents in the EU and an evaluation of whether action at EU level is necessary, which will also analyse the different possible options.”*





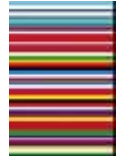
The European Football Agents Associations

EFAA



“EFAA has been formed to maintain, and where necessary, to introduce a high standard of professionalism, clarity and regulatory control in the profession of players' agents within the football family.”

“The EFAA wishes to stress its important role in the (self-) regulation of the profession of agents and professional football in general, within the boundaries of European Law. Efficient and enforceable regulation is merely achievable with the support, participation and the consent of the organized collective of Players' Agents, in a spirit of transparency and collaboration with all relevant stakeholders in football.”

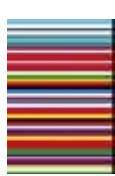




Current Situation

- In 2015 FIFA introduced the “Regulations on working with intermediaries” and thus abandoned the former licensing system
- According to a statement of Marco Vullinger, Director Legal of FIFA, at a EU Workshop in Brussels in 2009, that radical change was necessary since 70% of the transfers were done by none licensed agents, who could not be sanctioned by FIFA
- Although, if that number would have been correct, FIFA could have sanctioned Clubs and Players working with none licensed agents and thus help strengthening the former licensing system, FIFA decided to open the market of player agency completely
- The “Regulations on working with intermediaries” as understood by FIFA are only a framework to be applied by the FIFA member states. This lead to diversified rules within the EU itself making it extremely difficult not only for agents to work within the EU but also to track malpractice.
- The range in the EU goes from needing a license (France), over obtaining a registration only after an interview was conducted (Spain) to receiving payments only thru a clearing house (UK). The Italian rule, that the registration in Italy required an address was abandoned after protest among others from AIACS and EFAA
- The current problems in the field of intermediaries are further deepened by different regulations on the level of national member states





New Regulations Implementation

England	France	Italy	Spain	Portugal	Holland
3% rec.	10% max.	3% rec.	3% rec.	5% max.	3% min.
registration documents	licence/eq.	residents only	interview	insurance	registration documents
500£/250£	200€*	500€	861€	1000€	500€
minors	minors	minors	minors	minors	minors
No TPO	No TPO	No TPO	No TPO	No TPO	No TPO





EFAA´ s approach



- EFAA offers its cooperation and expertise as a collective of agents the malpractices in football
- EFAA urges its member associations to adopted Code of Conducts which go beyond the current FIFA regulations
- Germany and the Netherlands have done so in 2017, the Czech Republic is currently working on their national Code of Conduct, all other members must follow suit in 2018
- In part the national associations have been accepted by the national football associations as equal partners (Germany, Netherlands, Czech Republic)





The situation in Germany



- On February 10th, 2016 the German Football League (“DFL”), the German Football Association (“DFB”) and the German Football Agents Association (“DFVV”) signed a Memorandum of Understanding in which the DFVV was accepted as an official partner for both DFL and DFB
- After the DFVV introduced its Code of Conduct in June 2017, the parties of the MoU opened negotiations to establish a long term relationship based on a firm contractual relation between the DFL, the DFB and the DFVV
- One of the commitments of all partners is to safeguard the game of football and to find a balance between the economic side and the emotional side





The situation in Germany



- The collaboration in Germany has already led to a deeper understanding of the individual positions
- All three organizations are already working together to introduce more transparency and more quality into the field of football agents
- Currently they are working on joint guidelines for the consultation of football players, in order to establish a best practice scenario
- All three organizations are working together to enhance the protection of minors in the field of football
- All three organizations are committed to sign a contractual agreement prior to June 30th, 2018





The situation in Germany



- On an international level, DFL, DFB and DFV are willing to accept the national registration of every intermediary coming from a country that has similar regulations
- This will lead to a more uniform approach in regulating the business of football agents within the EU and will bring more transparency
- First talks with the KNVB, FBO and PRO Agent have already taken place





EFAA



Thank you very much for your attention!

Dr. Gregor Reiter
gregor.reiter@dfvv.net



Introductory statement from Mr. Bastian Brinkmann.

I want to thank you for the opportunity to talk to you European lawmakers. Today we want to talk about corporate taxes in Europe. And then it is hard to call you lawmakers in the literal sense. Because you are very much shut out of the process of law-making when it comes to taxes. You know that. I just wanted to state that I would like to see the role of the European Parliament to expand when it comes to this issue. I am saying this, like everything else today, in personal capacity, as a European citizen.

So let's talk corporate taxes. That means basically automatically: talking corporate tax evasion. The panel is about so-called tax planning and poses the question: Do companies breach EU law?

The European Commission with the powers given to it by the European treaties, decided in several cases, that tax schemes used by companies in Europe were illegal. I have to add that they probably are challenged in the European Court of Justice and that it is every company's right to do so. I don't have to repeat the most famous example: Apple. The Commission ruled against the American iconic company and ordered Ireland to recover taxes of up to 13 billion euro, plus interest. That's a lot. But I want to stress the decisions and investigations concerning European companies. Because not only American internet companies are using tax loopholes. I want to recall the Commission's decision against the car maker Fiat for getting selective tax advantages in Luxembourg. Fiat is a former Italian company that is now based in the Netherlands, in a country that is known as a corporate tax haven. This example shows: We have a lot of work to do in Europe. The European Commission is referencing state aid when it rules on tax schemes. We have to wait for the European Court of Justice to see if that's feasible.

In 2016, I looked at the BASF subsidiary in the Netherlands called BASF Nederland BV after the Greens in the European Parliament put out a report about BASF. Of course, back then, I not simply repeated what the study claimed and I am not going to do this now. Everybody can read the report on their own, if they want. I went into the Dutch company filing system and got the report for the BASF Nederland BV. And the report was interesting.

At the time, 670 people worked there, they were doing all things chemical. But the report showed: The chemical part was only a small part of the total revenue of the company. To give you the numbers: The profit of the company in 2015 was 1.2 billion euro. Only 77 million euro were coming from the chemical business. The rest was from finance deals. BASF Nederland BV at the time was the parent company of 38 other companies that wired money to the Dutch company. These payments are relatively low taxed in the Netherlands.

When I talked to BASF back then before filing my report at my newspaper, I found their answer to be surprisingly honest. I talked and tried to talk to multiple companies about tax evasion in the past five years. Most of the time, they don't want to discuss this topic. They don't want to clear up any questions that I have. They merely state that they obey the law. BASF was different. They said: "Taxes are an expense factor. In the interest of its stockholders, BASF seeks to reduce these expenses within the framework of the existing legislation."

That is an interesting point. Because it puts forward a question: What if the players are just playing the game — and if the rules are wrong?

I personally support some kind of Common Consolidated Corporate Tax Base in Europe, a CCCTB. I also support a better name for this initiative. Recent economic studies point out that it's the tax base that counts when it comes to corporate taxation, not the tax rate.

I live in Germany, and Germany exports a lot of goods. A CCCTB would probably mean that German companies pay more taxes abroad. It will be also hard to get countries on board that pride themselves with having tax-friendly environment. I think it will be very hard to come together to get a European solution here. But we need a fairer system than today.

Concerning the initial question whether companies breach EU law: I am in no position to talk about the legality of the tax planning of individual companies. I am not the European Commission nor the European Court of Justice, I am just a journalist. I can only work with information that is publicly available or given to me. And in taxes, we, the public, we know far too little.

That's another problem. As a journalist that worked with leaked material from the so called Lux Leaks, I know that tax secrecy shield companies that abuse the rules. I read minutes of a meeting in Luxembourg from a company that started at 4.15pm. According to the official minutes that were part of the secret tax filings, the meeting handled a lot of importing issues and they are discussed "carefully", to quote the minutes.

It must have been a good meeting compared to the meetings that I usually attend. Because it was already over after one minute. The meeting is important because it has to take place in Luxembourg to fulfil legal requirements. The official filing stated it did, for one minute. This is only one anecdote, but I find it illustrating a bigger point. With leaked material I got better insights how corporate tax-planning can work.

Thanks to International Consortium of Investigative Journalists, many of the Lux Leaks files are now public for everybody. But countries change laws and corporations change their tax-planning. We need more transparency when it comes to corporate filings. I understand that companies want to protect their business secrets. I don't ask to publish every internal detail. But we need more information than we get today. In the end, the public interest is more important.

PUBLIC HEARING

TAX-PLANNING, DO CELEBRITIES AND COMPANIES BREACH EU LAW?

TUESDAY, 26 SEPTEMBER 2017

09.00 - 12.30

Room: Altiero Spinelli (ASP) 5G-2
Brussels

REPLIES TO THE WRITTEN QUESTIONS

1. Could you assess if the methods shown in Football leaks are a common practice in Football?

Answer: Yes, Football Leaks is based on a huge pile of data, from various sources and from different countries. Soccer players, coaches and player agents work in a truly European market – their behavior towards club A in country B is usually comparable to that towards Club C in country D. Also, we have seen players who move from one country to another using similar tax schemes in all the countries where they are playing.

2. How do you assess the reaction of the football associations such as FIFA and UEFA on the Football leaks revelations?

Answer: In general, the reactions of the entire football industry have been quite defensive. We have found very few parties or individuals who were willing to openly discuss the problems and the lack of (financial) transparency in European soccer. FIFA pointed to player agents, player agents in turn pointed to FIFA – and nothing really changed.

3. The Panama Papers and the football leaks revealed the way in which image rights are paid to football players and football clubs through entities located in tax havens. Can you please provide more information on the types of structures you've encountered, and the way in which they were used for tax evasion, tax avoidance, and money laundering.

Answer: The structures focus on image rights, as wages are easily taxed at the level of the clubs. Note that image right payments and wages are related. For a soccer player or his advisor, a euro is a euro – and it does not matter much whether it is labelled wage or image right payment.

The tax schemes are well comparable to those in the music industry. Players sell or give away their image rights to a company – often in Ireland. Sponsors pay this company in order to be allowed to use the image right of the player. The image right company in turn deals with another company, for instance in Panama or the British Virgin Islands. Some tax (say, 1 or 2 percent) is paid in the intermediate company (like Ireland), but most of the money is transferred offshore. It is unknown who owns or controls the Panama/Virgin Island company. It is also unknown whether any taxes are paid there.

- 4. One of the relevant players in these schemes are the sports multinational companies that are paying for the image rights. They also use offshore entities for such arrangement. Such entities are used to collect the payment of all affiliates for the use of the image rights, and to pay football players and football clubs, evading and avoiding taxes. Can you please comment on the role of multinational entities in such schemes?**

Answer: Most sports multinational companies nowadays refuse to do business with an unknown offshore company. As an answer, shell companies in 'normal' European countries have been put in place in the tax schemes. The advantage: the multinational companies and clubs can do business with a 'normal' company. They pay the shell company (in the Netherlands for instance), who – in turn – channels the money offshore. For the multinational entities, their contracts look clean – free from dealings with dodgy companies from Panama. The question remains in how far they know (and/or need to know) who is behind the normal looking shell companies who appear to be their business counterpart.

PANA Hearing 26 September - First panel: Football leaks

Gregor Reiter, Deutsche Fußballspieler-Vermittler Vereinigung E.V. - European Football Agents Association (EFAA)

- The Football Leaks scandal showed there is a particular role played by agents and other intermediaries in assisting setting up schemes enabling tax avoidance. Can you elaborate on the specific duties of these professions in complying with rules and practices? Is there a code of conduct or binding obligations for football agents?

I can only elaborate in as far as Germany is concerned. Up until 2001 job placing was regulated in Germany and limited to government agencies ("Arbeitsamt"). That regulation was lifted in 2001 and there is no access limitation to the job placing market. The only legal regulations can be found in §§ 296 ff. SGB III.

However, since there is no license needed in Germany to work in job placements, everybody can register themselves as an intermediary. Although the German regulations make it possible for the government to introduce requirements for particular jobs, such as athletes, the German government as refrained from doing so.

Therefore, there are no rules in Germany an intermediary needs to oblige. Having understood the need for rules and regulations, the German Football Agent Association (DFVV) was along with the Dutch organization PRO Agent, the first agent organisation that introduced a code of conduct for player agents. That Code of Conduct contains, among other things, the prohibition to accept payment in regards to working with minors, DFVV members are called to refrain from unethical behaviour and need to continuously educate themselves. Furthermore DFVV members need to have a professional liable insurance. Any infringement of the Code of Conduct can be sanctioned by the DFVV. The German Football League (DFL) is very much in favour of the Code of Conduct and is ready to negotiate with the DFVV a contract regulating the relationship between the DFVV and the DFL thus making sure that agent work in Germany will become even more transparent to the stakeholders then it is today.

- What is the supervisory role of your association? Have you launched an inquiry after the revelations? If yes, what are the results and if not, why not? Were there any new instrument that you have set-up to prevent similar scandals in the future?

Under German law we have only supervisory powers over our members but not over an individual or an entity working in the field of football without any ties to the DFVV. EFAA is an umbrella organisation to the national agents associations and has thus very limited powers to investigate such allegations. Furthermore, I would like to point out, that they investigation of any criminal activities falls into the scope of the respect national government and not into the scope of private organizations such as EFAA and the DFVV.

As pointed out above, the DFL is willing to enter into a contractual relationship with the DFVV thus helping to promote the DFVV as representative of the German football agents.

In 2009 EFAA has advised FIFA on some of the grievances already described in the EU White Book Sport in 2007. EFAA has urged FIFA to adopt a clearing house system similar to the one used by the English FA. EFAA even draft a full set of rules and regulations and sent them to FIFA in order to discuss them. FIFA up until today ignored all offers made by EFAA to join the fight against criminal behaviour in the world of football.

- The Panama Papers and the football leaks revealed the way in which image rights are paid to football players and football clubs through entities located in tax havens. Can you please provide any information on the typical structures that are used regarding the trading of image rights?

Image rights deals are unknown to Germany. The only know case of such a deal in 1999 (French player Djorkaeff / 1. FC Kaiserslautern) ended in criminal charges against the former CEO of 1. FC Kaiserslautern Jürgen Friedrich and two other board members. Kaiserslautern split the money to be paid to Djorkaeff into to two parts: The first, smaller part of the money was paid to the Player as a regular salary. The second, larger part was paid to a company in his possession based out German jurisdiction. That company, a Swiss Company named Beratungs- und Orgacontrol AG domiciled in the Swiss tax haven Zug, was the sole owner of Djorkaeffs image rights and “rented” those image rights to 1. FC Kaiserslautern. Since in the Bundesliga a player has to assign the use of his image rights to his club in order to be allowed to play in the Bundesliga. Kaiserlautern paid Djorkaeff 5,0 Mio. DEM gross in salary and the club paid another 11,8 Mio. DEM to the swiss company for the image rights from August 1999 until August 2001. CEO Friedrich was convicted for tax fraud and the club has to pay 8,9 Mio. € in penalties.

- What is the structure used by multinational sports companies paying to pay for such image rights?

I am afraid I do not understand this question.